REMARKS

Applicants have studied the Office Action dated March 14, 2005. It is submitted that the application, as amended, is in condition for allowance. Claims 1-39 are pending. Claims 1, 18, 33, and 39 are amended. Reconsideration and allowance of the pending claims in view of the following remarks is respectfully requested.

In the Office Action, the Examiner:

- rejected the affidavit under 37 C.F.R. § 1.131 submitted by the Applicants on November 5, 2004;
- rejected claims 1-9, 11-31, and 33-39 under 35 U.S.C. §102(e) as being anticipated by Carroll, Jr. (U.S. Patent Application Number 2002/0085020); and
- rejected claims 10 and 32 under 35 U.S.C. §103(a) as being unpatentable over Carroll, Jr. (U.S. Patent Publication Number 2002/0085020) in view of Stapel et al. (U.S. Patent Publication Number 2002/0087571).

Amendments to the Claims

Claims 1, 18, 33, and 39 were amended for clarity. The term "without presenting" was replaced with the term "free from," which has the same meaning to those of average skill in the art. The term "free from" is used as known in the art and was not *ipsis verbis* (not in the identical words) in the specification. The Examiner is respectively reminded that this was sufficiently described in the specification on page 16, first sentence and claims 1, 18, 33, and 39 as originally filed, albeit not in the identical words.[1]

1.131 Affidavit

As noted above, the Examiner rejected claims 1-9, 11-31, and 33-39 under 35 U.S.C.

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[1] "If, on the other hand, the specification contains a description of the claimed invention, albeit not in *ipsis verbis* (in the identical words), then the examiner or Board, in order to meet the burden of proof, must provide reasons why one of ordinary skill in the art would not consider the description sufficient. See In re Alton (Fed. Cir 1996) (Emphasis Added). See also Fujikawa v. Wattanasin (Fed. Cir. 1996), *ipsis verbis*, "as the Board recognized, however, *ipsis verbis* disclosure is not necessary to satisfy the written description requirement of section 112. Instead, the disclosure need only reasonably convey to persons skilled in the art that the inventor had possession of the subject matter in question. In re Edwards, 568 F.2d 1349, 1351-52, 196 USPQ 465, 467 (CCPA 1978). See MPEP 2163 subsection II 3 (a), second to last paragraph.

§102(e) as being anticipated by Carroll, Jr. (U.S. Patent Application Number 2002/0085020) and rejected claims 10 and 32 under 35 U.S.C. §103(a) as being unpatentable over Carroll, Jr. (U.S. Patent Publication Number 2002/0085020) in view of Stapel et al. (U.S. Patent Publication Number 2002/0087571).

On November 5, 2004, the Applicants submitted an affidavit under 37 CFR 1.131 to overcome the Carroll reference. The Examiner rejected the submitted affidavit for "fail[ing] to sufficiently demonstrate conception or reduction to practice prior to the effective date of the Carroll reference."

Accordingly, the Applicants hereby submit a new affidavit under 37CFR § 1.131 stating and including evidence that the present invention was conceived and reduced to practice prior to the effective date of Carroll. Applicants submit that Carroll is now removed as a reference under 102 and 103.

Rejection under 35 U.S.C. §102(e) as anticipated by Carroll

As noted above, the Examiner rejected claims 1-9, 11-31, and 33-39 under 35 U.S.C. §102(e) as being anticipated by Carroll, Jr. (U.S. Patent Publication Number 2002/0085020). As noted above, the Applicants have submitted herewith a properly executed 1.131 Affidavit with relevant evidence herewith to remove the Carroll reference. Accordingly, the Applicants respectfully submit that the present invention distinguishes over Carroll for at least this reason and that the Examiner's rejection should be respectfully withdrawn.

Rejection under 35 U.S.C. §103(a) over Carroll and Stapel

As noted above, the Examiner rejected claims 10 and 32 under 35 U.S.C. §103(a) as being unpatentable over Carroll, Jr. (U.S. Patent Publication Number 2002/0085020) in view of Stapel et al. (U.S. Patent Publication Number 2002/0087571). As noted above the Applicants have submitted herewith a properly executed 1.131 Affidavit with relevant evidence herewith to remove the Carroll reference. Accordingly, the Applicants respectfully submit that the present invention distinguishes over Carroll taken alone and/or in view of Stapel for at least this reason and that the Examiner's rejection should

be respectfully withdrawn.

CONCLUSION

The remaining cited references have been reviewed and are not believed to affect the patentability of the claims as amended. In this Response, Applicants have amended certain claims. In light of the Office Action, Applicants believe these amendments serve a useful clarification purpose, and are desirable for clarification purposes, independent of patentability. Accordingly, Applicants respectfully submit that the claim amendments do not limit the range of any permissible equivalents.

Applicants acknowledge the continuing duty of candor and good faith in the disclosure of information known to be material to the examination of this application. In accordance with 37 CFR §1.56, all such information is dutifully made of record. The foreseeable equivalents of any territory surrendered by amendment is limited to the territory taught by the information of record. No other territory afforded by the doctrine of equivalents is knowingly surrendered and everything else is unforeseeable at the time of this amendment by the Applicants and their attorneys.

Applicants respectfully submit that all of the grounds for rejection stated in the Examiner's Office Action have been overcome, and that all claims in the application are allowable. No new matter has been added. It is believed that the application is now in condition for allowance, which allowance is respectfully requested.

PLEASE CALL the undersigned if that would expedite the prosecution of this application.

Respectfully submitted,

Date: May 10, 2005 By: _____

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